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To: The Honorable Karl Rhoads, Chair
and members of the House Committee on Labor & Public Employment

Date: Friday, February 10, 2012
Time: 9:30 a.m.
Place: Conference Room 309, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. No. 1801 Relating to the Hawaii Employer-Union Health Benefits Trust Fund

The Department of Taxation (Department) appreciates the intent of H.B. 1801, but defers to the Department of Budget and Finance on the merits of the bill.

H.B. 1801 provides for the automatic deposit of general excise tax revenues into the Hawaii employer-union health benefits trust fund to amortize the trust fund's unfunded actuarial accrued liability. The Department will be able to implement these measures if adopted.

Thank you for the opportunity to provide comments.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEES ON LABOR AND PUBLIC EMPLOYMENT
AND PUBLIC SAFETY AND MILITARY AFFAIRS
ON
HOUSE BILL NO. 1801

February 10, 2012

RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST
FUND

House Bill No. 1801 provides for an automatic deposit of \$500,000,000 of general excise tax revenues into the Hawaii Employer-Union Health Benefits Trust Fund to amortize the unfunded actuarial accrued liability of the trust fund.

The Department of Budget and Finance supports the intent of this bill to address the unfunded liability for Other-Post-Employment-Benefits of the Hawaii Employer-Union Health Benefits Trust Fund. The growing Other-Post-Employment-Benefits liability is a concern shared throughout the State that will undoubtedly require action. However, there would clearly be a severe fiscal and financial impact on the State that would require an equally significant financial strategy to accommodate this added expense in the overall fiscal plan for the State.

The OPEB unfunded liability is, by its very nature, significant. Addressing this problem will be equally significant - as this bill clearly demonstrates. This bill is attractive in that it does propose an approach to develop a means and measure that starts to address OPEB unfunded liabilities. This concept would have to be further contemplated and articulated to ensure that it does, in fact, satisfy the OPEB liability.

For example, the bill should clarify which employer will receive the credit for this contribution – general excise tax is a State tax and it should be clear whether the contribution would or would not reduce the liability of other (non-State) employers. We need to work together to understand the impact and implications on the financial plan - especially, in light of current and anticipated financial conditions of the State. While the solution is not likely to be positive all-around, we recognize that the bill is strategic in implementing a financial structure to deal with these long standing problems.

If the State of Hawaii is to begin dealing with the OPEB liability, we must recognize that the commitment of annual contributions will be a significant cost that the State is currently not paying for. The cost will not go down on its own the longer we prolong dealing with this problem, but this measure is a good start of the discussion. The State cannot afford the level of funding proposed in House Bill No. 1801 currently, but the Administration is working with the Legislature to reach a viable and reasonable approach to addressing this problem. We look forward to continue working with the Legislature on these important matters and would welcome the opportunity to further explore the potential for solutions.

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SUBJECT: GENERAL EXCISE, Disposition for unfunded actuarial accrued liability of the Hawaii employer-union health benefits trust fund

BILL NUMBER: HB 1801

INTRODUCED BY: Say

BRIEF SUMMARY: Amends HRS section 237-31 to provide that in each fiscal year from fiscal 2014 to fiscal year 2044, \$500 million from all general excise tax revenues realized by the state shall be deposited into the Hawaii employer-union health benefits trust fund to amortize the unfunded actuarial accrued liability of the trust fund provided that no portion of the deposit shall be used to pay the employer contributions toward the annual employee-beneficiaries' and dependent-beneficiaries' health benefits plan premium costs or medicare part B premium reimbursements or administrative expenses of the trust fund. This action shall not prevent the legislature from appropriating by legislative act other general or non-general funds to amortize the unfunded actuarial accrued liability.

EFFECTIVE DATE: July 1, 2013

STAFF COMMENTS: The proposed measure would earmark \$500 million in general excise tax revenues from fiscal 2014 to fiscal 2044 to amortize the Hawaii employer-union health benefits trust fund's actuarial accrued liability.

If this measure were adopted, it would prioritize these funds ahead of all other general funds and result in less general funds available for other programs and services. In addition, the danger in adopting this measure is that it may spawn additional requests for other "creative" accounting through the earmarking of general excise tax revenues. In addition, the automatic funding mechanism proposed in this measure would set aside general excise tax revenues without going through the appropriation process and, most importantly, without legislative scrutiny or intervention.

While this measure also provides that this earmarking shall not prevent the legislature from appropriating additional funds to amortize the unfunded actuarial accrued liability of the trust fund, once the earmarking takes effect and automatically deposits \$500 million into the employer-union health benefits trust, this earmarking may be "forgotten" and only the additional amount appropriated would be "visible" and subject to legislative approval.

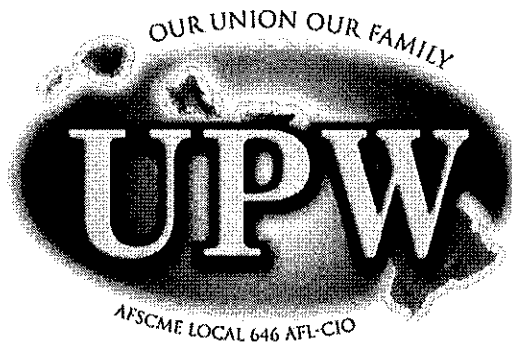
More importantly, because the general excise tax revenues are earmarked for this purpose, the question is whether or not when the sum set aside for the unfunded liability contribution is actually made, the amount will be appropriated as general funds and, thus, will it be counted against the constitutional general fund expenditure ceiling? Further, because the amount is designated for this purpose, will the taxpaying public know that this contribution is coming at the expense of all other programs or will it prompt a call for an increase in taxes so that both the unfunded liabilities and all other programs be funded?

HB 1801- Continued

How soon lawmakers have forgotten how earmarking general fund revenues can get the state into trouble. It was only 1989 when lawmakers approved earmarking \$90 million for educational facilities as the “commitment” to education and only three years later they took back the earmarking because general fund revenues started to dwindle. Further, rather than spurring on construction of classrooms, the earmarking merely created apathy as school officials knew they would receive \$90 million off the top and they didn’t have to justify a request for funding. Lawmakers should go back and read a little of their own history and learn from their mistakes.

While this proposal may be viewed as “the right thing to do” in order to insure the integrity of the Hawaii employer-union health benefits trust fund, it makes no effort to curtail benefits for future beneficiaries nor does it address how the shortfall of resources created by this siphoning off of general excise tax revenue will be dealt with while other general funded programs still demand funding. Is this just another back door way to create a demand for higher taxes? Will this bill merely punish future taxpayers for the mistakes made by the legislature in the past?

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THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Sixth Legislature
Regular Session of 2012

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
The Honorable Rep. Karl Rhoads, Chair
The Honorable Rep. Kyle T. Yamashita, Vice Chair

DATE OF HEARING: Friday, February 10, 2012
TIME OF HEARING: 9:30 a.m.
PLACE OF HEARING: Conference Room 309

**TESTIMONY ON HB 1801 RELATING TO THE HAWAII EMPLOYER-UNION
BENEFITS TRUST FUND**

By DAYTON M. NAKANELUA,
State Director of the United Public Workers,
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 11,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

The UPW supports the intent of HB 1801, which provides the automatic deposit of general excise tax revenues into the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) to amortize the trust fund's unfunded actuarial accrued liability.

This bill will help to reduce the unfunded liability now facing the EUTF, without creating additional burden on employers or employees who currently pay into the fund.

Accordingly, the UPW supports the intent of HB 1801.

Thank you for the opportunity to testify on this measure.